IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HON'BLE THE CHIEF JUSTICE MR.V.K.BALI
&
THE HONOURABLE MR. JUSTICE P.R.RAMAN

FRIDAY, THE 8TH DECEMBER 2006 / 17TH AGRAHAYANA 1928

WA.No. 2286 of 2006()

AGAINST THE ORDER IN WPC.30446/2006 Dated 21/11/2006
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APPELLANT: PETITIONER:

COCHIN THURAMUGHA THOZHILALI UNION,
REGISTERED OFFICE AT KOCHI, REPRESENTED BY ITS
GENERAL SECRETARY, A.A.KOCHUNNI, S/O.ABDUL KHADER-
ARAKKAL, AGED 85, SOCIAL WORKER, RESIDING AT
ARAKKAL HOUSE, PANAYAPPILLY, KOCHI-3.

BY ADV. SRI. SHIJU VARGHEESE
SRI.DILEEP VARGHESE
SMT.M.J.SAJITHA
SRI.C.S.YESUDAS

RESPONDENTS: RESPONDENTS:
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1. COCHIN PORT TRUST,
WILLINGDON ISLAND, REPRESENTED BY ITS CHAIRMAN,
OFFICE OF THE COCHIN PORT TRUST,WILLINGDON ISLAND,
KOCHI-3.

2. CHAIRMAN,
KERALA HEAD LOAD WORKERS WELFARE FUND,
P.B.NO.2017, S.R.M.ROAD, ERNAKULAM, KOCHI-18.

3. ASSISTANT LABOUR COMMISSIONER (CENTRAL),
OFFICE OF THE ASSISTANT LABOUR COMMISSIONER,
OOLIMUGHAL, KAKKANAD, COCHIN-30.

4. THE COMMISSIONER OF POLICE,
OFFICE OF THE CITY POLICE COMMISSIONER,
ERNAKULAM, KOCHI-31.

5. STATE OF KERALA,
REPRESENTED BY THE CHIEF SECRETARY TO THE
GOVERNMENT, GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM.

A.G. SRI. C.P. SUDHAKARA PRASAD.

S.C. FOR COCHIN PORT TRUST - SRI. ANTONY DOMINIC

R2 BY ADV. SRI.BABU KARUKAPPADATH, SC,KHLWWB

GOVT. PLEADER SRI. T.B. HOOD.

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 06/12/2006, THE COURT ON 8.12.2006, DELIVERED THE FOLLOWING:

V.K. BALI, C.J. & P.R. RAMAN, JJ.

W.A. NO. 2286/2006

DATED THIS, THE 8TH DAY OF DECEMBER, 2006.

J U D G M E N T

Raman, J.

Appellant is the petitioner in W.P.(C) No. 30446/2006. This appeal is directed against the interim order passed by the learned Single Judge on 21.11.2006 in the said writ petition.

2. The interim prayer made in the writ petition is for an order of injunction or such other appropriate directions or orders to stay the operation of Exts. P1 and P3 and implementation of the Kerala Head Load Workers Act in the Cochin Port among the loading and unloading workers. After hearing the parties, the learned Single Judge found that among the various contentions raised by the writ petitioner, the only contention which can be redressed is concerning the registration of the Head Load Workers with the Head Load Workers Welfare Fund Board. In that regard, the contention of the petitioner/appellant was noted. It was observed that according to the petitioner/appellant, there is substantial number of

workmen, who are doing the loading and unloading work in the area without registration under Rule 26A of the Kerala Head Load Workers' Rules and only persons with such registration are eligible for getting registration under the Welfare Fund Board. Therefore, in order to become eligible for the benefit of the registration under the Rules as aforesaid, it was ordered that workmen who are actually engaged in the work of loading and unloading under the jurisdiction of the local committee of the Welfare Fund Board can move the Assistant Labour Officer for registration under Rule 26A of the Kerala Head Load Workers' Rules. In the event of receiving any such application, the Assistant Labour Officer was also directed to hold an enquiry as per rules and dispose of the same within one month from the date of its' receipt. There was a further direction that those persons who get registration under Rule 26A shall be given a chance to get themselves registered under the Head Load Workers Welfare Fund Board within two weeks thereafter.

3. According to the learned Senior counsel Sri. P.F. Thomas appearing for the appellant, various other contentions raised were not considered by the learned Single Judge and the matter was disposed of without giving him reasonable opportunity to elaborate those points at the time of hearing.

4. Learned Advocate General, as well as counsel Sri. Antony Dominic, appearing on behalf of some of the respondents, however, submitted that at the time of hearing, the point that urged was the one considered by the learned Single Judge and as such if the petitioner has a case that some other points, which, according to him, were raised in the writ petition were also to be considered by the learned Single Judge, the proper course is to seek for review of the order and there is no reason for filing an appeal.

5. We heard both sides. The prime contention raised by the petitioner in the writ petition is to quash Exts.P1 and P3. He also sought for a declaration that various categories of employees of Head Load Workers working in Cochin Port Trust and employed in various establishments and Firms who are members of petitioner Union are governed by the various conciliation settlements and bipartite settlements entered into between the employer and employees and such settlements are still in force and not terminated in accordance with law and the appropriate Government is the Central Government and the concerned Labour Commissioner is the Central Labour Commissioner or his subordinate to interfere in the disputes and bring it to a settlement and the Kerala Head Load Workers Act is not applicable to members of the petitioner union who are loading and

unloading workers.

6. According to the learned counsel, this contention regarding the applicability of the Head Load Workers Act was not considered by the learned Single Judge while passing the impugned order. In view of the submission made by the counsel appearing for the respondents and in the absence of any material as to what transpired in the course of argument of the matter and in the light of the submission now made by the learned counsel for the appellant, the appropriate course open to him is to seek a review of the order, if any of the points urged by him is required to be considered and decided.

With leave and liberty to seek review of the order impugned in this appeal, this writ appeal is dismissed.

V.K. BALI,
(CHIEF JUSTICE)

P.R. RAMAN,
(JUDGE)

knc/-